



# ZONING ORDINANCE VARIANCE

## Application Submittal Requirements

### Project Description / Variance Details

Case Numbers: 668 - PA - 2005 / \_\_\_\_\_ - BA - \_\_\_\_\_

Project Name: \_\_\_\_\_

Location: 11775 N 101<sup>st</sup> STREET

#### Property Details:

☒ Single-Family Residential ☐ Multi-Family Residential ☐ Commercial ☐ Industrial

Use: residential Zoning: R-35

Number of Buildings: 2 Height: Varies

Setbacks: N - 40' S - 15' E - 15' W - 40'

#### Description of Request:

Section of the Zoning Ordinance to be varied: NORTH (SIDEYARD) SETBACK  
SECTION 5.204.9 ; 7.104

#### Project Narrative:

REPLACE PRIOR SIDEWALL (CONCRETE BLOCK) LOCATED 40'+  
FROM STREET WITH NEW CONCRETE BLOCK WALL LOCATED  
16 FT FROM STREET (14.33 FT FROM GUTTER).

NEW SIDEWALL TO HAVE VARIABLE DISTANCES FROM STREET,  
RANGING FROM 16-40' FT SO THAT NEW WALL IS NOT  
A SINGLE LINEAR FEATURE.

APPROVE CONSTRUCTED WALL "AS-BUILT"

Scottsdale Ordinance Requires: DUE TO "KEY LOT" THAT ABUTS APPLICANT,  
NORTH (SIDEYARD) SETBACK SET AT 40' (THE FRONT SETBACK FOR  
THAT PROPERTY)

Request: ALLOW PRIOR SIDEWALL TO BE MOVED FROM 40' SETBACK  
TO CURRENT CONSTRUCTED LOCATION (14.33 FT FROM GUTTER, 16' FROM  
STREET), CONSISTENT W/ NORMAL 15' SIDE YARD SETBACK, "AS-BUILT."

Amount of Variance: 25' OF ADDITIONAL SIDEYARD CONVERTED TO  
USEABLE SPACE.

### Planning and Development Services Department

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## **ZONING ORDINANCE VARIANCE**

### **Justification for Variance**

**1. Special circumstances/conditions exist which do not apply to other properties in the district:**

The applicant, located at 11775 N 101<sup>st</sup> Street, is located on the corner of 101<sup>st</sup> Street and Jenan; it is located within the Cactus Acres area, which consists of R-35 and R-43 properties. The property at 10125 E Jenan is identified as a "key lot" which then restricts the side yard setback for the applicant from the normal 15 feet for R-35/R-43 properties to 40 feet.

According to City staff, this is an unique property because it is adjacent to a "key lot;" this is not a common situation within the immediate area.

The general alignment of properties within this portion of Cactus Acres is north-south, with the exception of three lots in Cherokee Glenn (the applicant is one of 10 lots that are part of this development) that are aligned east-west. As such, there are numerous examples of sidewalls that are located 15 feet from streets (see attached photographs of houses whose front entry faces a sidewall across the street).

**2. Authorizing the variance is necessary for the preservation and enjoyment of substantial property rights:**

The 40-foot setback represents a substantial limit to the side yard of the applicant; in fact, the setback is not useable space other than for landscaping purposes. There is no measurable value associated with the incremental footage in the setback in comparison to the standard 15-foot setback.

The existing 40-foot setback is only 12 feet from the northern wall of the house, giving the appearance of a "zero-lot-line" on a property that is R-35. A variance to allow the side wall to be placed at the typical setback of 15 feet results in a substantial increase in the useable property for the applicant:

- The useable side yard almost triples in size (the current useable space is approximately 1100 ft<sup>2</sup> and the new space would be approximately 3000 ft<sup>2</sup>)
- The useable back yard open space increases by 22 percent (the useable back yard open space is defined as space not currently occupied by a swimming pool, decking, or casita)

Most importantly, the 25 feet of additional side yard space allows the applicant's property to become consistent with the surrounding properties in terms of useable space and visual appearance. All other parcels in Cherokee Glen, as well as the immediate area, have full use of their lots due to their alignment and/or location, while the applicant does not.

The applicant constructed a replacement wall within the 40-foot setback and was subsequently issued a Notice of Zoning Violation by the City of Scottsdale dated 8/10/05, with a second notice on 9/1/05. The replacement wall is located approximately 14.2 – 14.33 feet from the top of gutter, 15.5 – 15.75 feet from the bottom of the gutter, and 16+ feet from the street's edge.

**3. Special circumstances were not created by the owner or applicant.**

The “key lot” that abuts the applicant's property was established at the time of platting the development (1988).

**4. Authorizing the application will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare in general.**

Attached to this submittal is the information letter provided to neighbors asking for either their concurrence, disapproval, or no opinion on the variance request. As documented, approval of the variance is not materially detrimental:

- The adjacent property owners, Tom and Anita Canty, concurred with the variance request.
- 100 % of the immediate neighbors interviewed were in favor of the request. In fact, additional neighbors have favorably commented on the exterior improvements, such as new paint and stone facing, currently being made by the applicant.

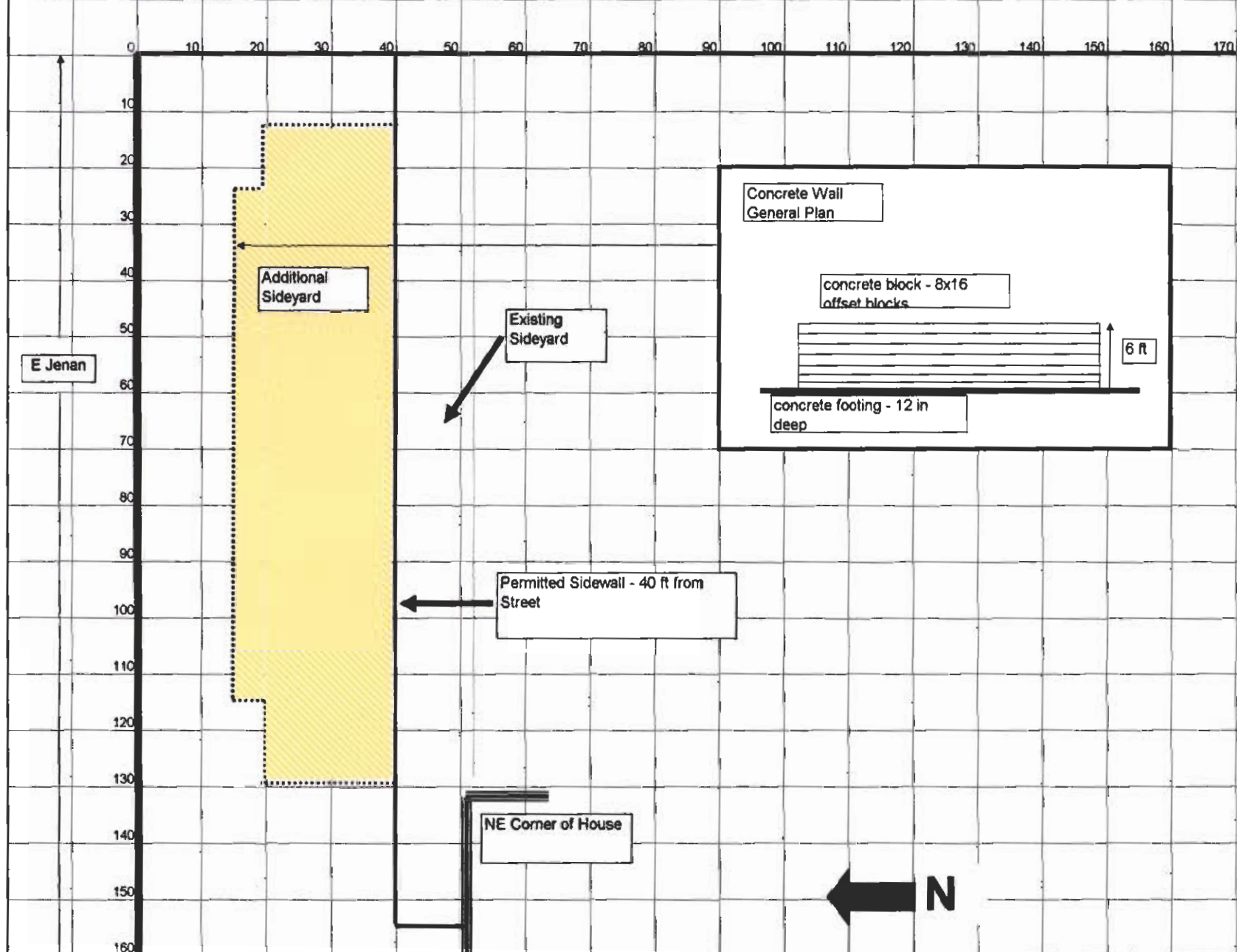
In terms of visual impact, there are numerous houses within the immediate area that have a front entry that faces a side wall. In order to mitigate visual impacts, the applicant designed the side wall to have staggered walls to break up a long straight-line visual effect (in other words, only a portion of the wall will be at a 15 foot setback; portions of the wall will be at an approximately 21 foot setback and portions of the wall will remain at the 40 foot setback).

In terms of public welfare, the primary issue associated with the variance request is safety – having an adequate line of sight from both the corner (101<sup>st</sup> and Jenan) and from the Canty's drive-way. Since the default setback is 15 feet, this distance is already deemed to be safe by the City of Scottsdale. To confirm that this is true, the applicant measured the distance from the back bumper to the driver's side window for a large pick-up truck and a large minivan. Both vehicles required 12 – 13 feet of clearance. Thus, the 15-foot setback provides a clear line of sight when a large vehicle is backing out of the Canty's driveway, without the vehicle entering into the street (see attached photographs).

The secondary benefit to public welfare is the increase in property value that will occur due to the increased useable back yard space for the applicant's property.

# SITE PLAN - CONCRETE SIDEWALL 11775 N 101st ST

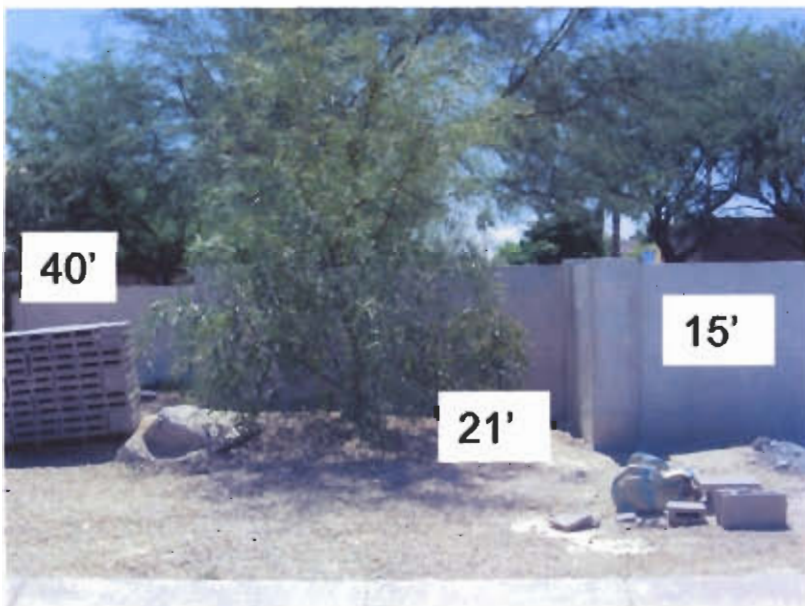
1sq = 10ft x 10 ft





#6

## ***Applicant's Constructed Wall Isn't Linear***



Multiple wall segments visible –  
15, 21, 40 feet from street

#6

## ***Safe View Corridor Maintained Along Jenan***

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View Looking East on Jenan  
from Applicant's Driveway



View Looking West on  
Jenan from Canty's  
Driveway using Minivan